1 of 13

(4)

Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 197 / 2006 SB

APPELLANT
Claimant

1) **Hemsingh (Minor)**
S/o- Laxman Singh
Aged about 13 years
Caste- Dhakad

Through Natural Guardian
Father- Laxman Singh
S/o Premsingh Thakur
Aged about 45 years
R/o- village Parchanpal, Chowki- Baster
P.S-Jagdalpur, Dist- Baster (C.G)

P.R. No. 2608/06
Presented by Shri ... Adv.
dated 11/9/06

Versus

RESPONDENTS

1) P. Ramu
S/o Acchaya Kapu (Telgu)
Aged about 28 years,
R/o- Shriram Colony, Salur
P.S- Salur, Dist- Vijaynagaram (A.P)
(Driver)

2) K.Tirupati Rao
S/o K. Moraiyya
Aged about 50 years
R/o- Samlamba Temple, Steel Salur
P.S- Salur, Dist- Vijaynagaram (A.P)
(Owner)

3) Divisional Manager,
New India Insurance Company Ltd.
Branch Office, Near Jhankar Takies
Tehsil- Jagdalpur, Dist- Baster (C.G)

APPEAL U/S 173 OF THE MOTOR VEHICLES ACT, 1988

(17)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A (C) No. 197 05 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

20.02.2007

Shri H.S. Ahluwalia, counsel for the appellant.

Heard on admission.

The appellant is aggrieved by the award dated 26/7/2006 wherein in an injury case involving fracture of shaft of femur compensation of Rs. 37,000/- awarded to the claimant/injured aged about 13 years is as under:-

1)	Loss of earning	=	Rs. 20,000/-
2)	For pain & suffering	=	Rs. 10,000/-
3)	For expenses towards dependency	=	Rs. 2,000/-
4)	For special diet during hospitalization	=	Rs. 2,000/-
5)	For medicines purchased	=	Rs. 3,000/-
	Total		**Rs. 37,000/-**

Learned counsel for the appellant has contended that in view of the fact that the claimant had sustained 40% permanent disability in his right leg, the compensation awarded by the learned M.A.C.T. is not just and reasonable compensation and should be suitably enhanced.

Having heard the learned counsel for the appellant and after perusing the claim case No. 207/2005, the following points emerge:-

1) The Doctor treating the claimant was not examined.

2) No explanation was offered why the claimant Hem Singh did not enter the witness box. The learned

-2-

XI-HC-78

(18)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.(C) No. 197 of 06 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	-2-	

3) Doctor V.K. Jha AW-3 who granted the disability certificate did not treat the claimant after the accident and had examined the claimant on 13.1.2006 i.e. about $1^{1/2}$ years after the accident. In cross-examination this disability has been narrated to be of moderate nature. He was not even able to tell the Court whether a nail was inserted or not on the site of fracture.

4) From the X-Ray report Ex.P-4, it appears that the claimant had suffered fracture of the middle $1/3^{rd}$ of the shaft of femur whereas the disability certificate merely shows that there was 40% disability in the right leg.

5) The claimant was aged about 13 years. His father Laxman Singh is a peon. No evidence was led to show that the claimant was not pursuing studies after the accident.

6) In cross-examination para 6, father of the claimant stated that he did not preserve the medical prescriptions of the claimant.

In the light of the above mentioned facts, I am of the considered opinion that the compensation awarded by the learned M.A.C.T. is just and reasonable compensation and cannot be faulted with.

This M.A. being devoid of merit is dismissed at the stage of admission.

C.C. as per rules.

Sd-/
Dilip Raosaheb Deshmukh
Judge

Priya

P.T.O.